

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

COPY

CITY OF ROCK ISLAND, ILLINOIS,)
a municipal corporation,)

Petitioners,)

v.)

THE BURLINGTON NORTHERN AND SANTA FE)
RAILWAY COMPANY A/K/A BURLINGTON)
NORTHERN RAILROAD COMPANY,)

Respondent.)

No. T 02 0114

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Illinois Commerce Commission
RAIL SAFETY SECTION

MOTION TO CONTINUE PUBLIC HEARING

Now comes respondent, The Burlington Northern and Santa Fe Railway Company ("BNSF"), by its attorneys, Kenneth J. Wysoglad & Associates and moves the Illinois Commerce Commission for an order continuing the January 22, 2003 scheduled public hearing in the above captioned cause. In support thereof, respondent states as follows:

1. On or about November 15, 2002 petitioner, City of Rock Island, Illinois filed its petition with the Illinois Commerce Commission in the above captioned cause.
2. Pursuant to notice issued by the Illinois Commerce Commission public hearing in the above captioned cause is scheduled for January 22, 2003 at the hour of 10:00 a.m. at the offices of the Illinois Commerce Commission located in Springfield, Illinois.
3. Due to a scheduling conflict, respondent's counsel is unable to appear at the scheduled January 22, 2003 public hearing and therefore requests a continuance of the hearing date. Counsel for respondent has previously been scheduled to appear before the Illinois Commerce Commission at its

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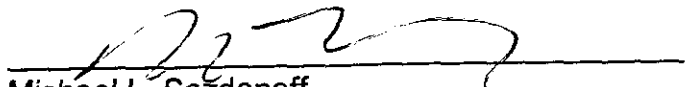
offices in Chicago, Illinois on January 22, 2003 at the hour of 10:00 a.m. in the matter styled City of Galena, Illinois v. The Burlington Northern and Santa Fe Railway Company, et al., Case No T 02-0064.

4. Respondent's motion herein is not made for the purpose of delay and said continuance of public hearing has been made necessary due to circumstances beyond the control of respondent's counsel. Moreover, respondent has not delayed in the filing of its motion herein. Neither respondent nor respondent's counsel were aware of the filing of petitioner's petition until on or about December 6, 2002 and respondent's counsel did not obtain a copy of the petition until December 9, 2002. The delay in obtaining knowledge of the petition and receipt of the same was the result of improper service of the petition by petitioner. As reflected on petitioner's proof of service, copies of the petition were apparently mailed to an improper entity, Burlington Northern Santa Fe Corporation and directed to the attention of Elmer D. Bergquist who was not and is not the registered agent of respondent and has not been employed by respondent since before January 1, 2000. Additionally, a copy of the petition was apparently directed to respondent's counsel at an incorrect mailing address. Respondent's counsel has not officed at the mailing address reflected on the proof of service since on or before July 1, 1999.

Wherefore, respondent, The Burlington Northern and Santa Fe Railway Company prays that the Illinois Commerce Commission enter an order continuing the January 22,

2003 scheduled public hearing in the above captioned cause to a date after February 7, 2003.

KENNETH J. WYSOGLAD & ASSOCIATES



Michael L. Sazdanoff

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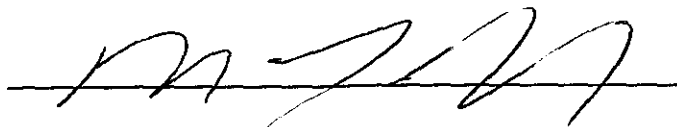
PROOF OF SERVICE

Michael L. Sazdanoff, being first duly sworn on oath, deposes and says that on the 10 day of DECEMBER, 2002, he caused to be served, a true and correct copy of **MOTION TO CONTINUE PUBLIC HEARING** upon:

Mr. Phillip E. Koenig
Konecky, Koenig, Kutsunis and Weng
1515 Fourth Avenue, Suite 301
Rock Island, Illinois 61201

Mr. Henry Humphries
Illinois Commerce Commission
527 E. Capitol Avenue
Springfield, Illinois 62701

by depositing same in the U.S. Mail depository located at Adams and Clinton Streets,
Chicago, Illinois in an envelope(s) with first-class postage, prepaid.

A handwritten signature in black ink, appearing to read "M. Sazdanoff", is written over a horizontal line.